

Comhairle Contae Chill Dara
Kildare County Council



Date: 24th February 2025.
Our Ref: ED/1189.

John Doyle,
Correel,
Vicarstown,
Co. Laois.

RE: Application for a Declaration of Exempted Development under Section 5 of Planning and Development Act 2000 (as amended) for development at Main Street, Monasterevin, Co. Kildare.

Dear Sir/Madam,

I refer to your correspondence received on 4th February 2025. in connection with the above.
Please find enclosed Receipt no. FIN1/0/508364 in relation to fee paid.

Please find attached declaration made under Section 5 of Planning and Development Acts 2000 (as amended) in this regard.

Yours sincerely,


Senior Executive Officer,
Planning Department.



**Declaration of Development & Exempted Development under
Section 5 of the
Planning and Development Act 2000 (as amended).**

ED/1189.

WHEREAS a question has arisen as to whether the change of use from clothes shop to a bike hire at Main Street, Monasterevin, Co. Kildare, is exempted development,

AS INDICATED on the plans and particulars received by the Planning Authority on 4th February 2025

AND WHEREAS John Doyle requested a declaration on the said question from Kildare County Council,

AND WHEREAS Kildare County Council as the Planning Authority, in considering this application for a declaration under Section 5 of the Planning and Development Act 2000 (as amended), had regard to;

- (a) Planning and Development Act 2000 (as amended) and
- (b) Planning and Development Regulations 2001 (as amended); and
- (c) Documentation received with the application

AND WHEREAS Kildare County Council has concluded that the development comprises works to which the provisions of the following applies:

- (a) Sections 2, 3, 4 and 5 of the Planning and Development Act 2000 (as amended).
- (b) Class 1 of Part 4 of Schedule 2 of the Planning and Development Regulations, 2001 (as amended).
- (c) Articles 6, 9 and 10 of the Planning and Development Regulations 2001 (as amended).
- (d) The nature, extent and purpose of the works.

NOW THEREFORE Kildare County Council, in exercise of the powers conferred on it by Section 5(2)(a) of the Planning and Development Act 2000 (as amended), hereby decides that the change of use from a clothes shop to bike hire at Moore Street, Monasterevin, Co. Kildare is **development and is exempted development.**

Please note: The exemption solely relates to the interior of the structure. No changes to the exterior of the building, including signage is considered to constitute exempted development given the location of the site within an Architectural Conservation Area. Please also note that there shall be no storage of bicycles on the public footpath.

Please note that any person issued with a declaration under subsection 2(a) of the Planning and Development Act 2000 (as amended) may on payment to the Board of the prescribed fee, refer a declaration to An Bord Pleanála within 4 weeks of the issuing of the decision.

24th February 2025


**Senior Executive Officer,
Planning Department.**

KILDARE COUNTY COUNCIL



PLANNING DEPARTMENT

Section 5 referral & declaration on development & exempted development

Planning & Development Act 2000 (as amended)

Reference No. ED/1189

Name Of Applicant(s):	John Doyle
Address Of Development:	Main Street, Monasterevin, Co. Kildare
Development Description:	Change of use from clothing retail shop to bike hire business.
Due date	4 th March 2025

Introduction

This is a request for a **DECLARATION** under Section 5(1) of the Planning and Development Act 2000 (as amended) to establish whether under Section 5 of the Act the works the change of use from clothes shop to a bicycle hire shop is or is not exempted development.

Site Location

The site is located along Moore Street in Monasterevin. There is an existing two-storey structure on site. The site is located in the Architectural Conservation Area (ACA) for Monasterevin as set out in the Kildare County Development Plan 2023-2029. It is stated that the unit was previously used as a grocery shop since the 1960's and most recently as a clothes shop. The unit does not appear to be in use as a clothing shop at the current time but it is noted from googlemaps that the ground floor was in use as a clothes store in 2023. The subject site is zoned for town centre uses and is bounded by Earleys Fashion Shop to the north of the site. It would appear that the first floor of the structure is in residential use.

Figs 1-4 Site Location and Context



Source: Site Location Map submitted with the Declaration- site outlined in blue



Source: Googlemaps- May 2023- subject site is to the right of the shop with purple shopfront.



Source: site photographs submitted with the declaration



Source: site photographs submitted with the declaration

Planning History

There is no planning history traced to the subject site.

Built/Natural Heritage

Built Heritage: The site is located within the identified ACA for Monasterevin. The existing building is not listed as a Protected Structure nor are the structures either side of the subject site.

Natural Heritage. The site is located approximately 85 metres from the River Barrow/Nore SAC. Refer to Appendix 1 for Appropriate Assessment Screening.

Relevant Legislative Background

Planning and Development Act 2000 (as amended)

Section 2(1)

'works' includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal and, in relation to a protected structure or proposed protected structure, includes any act or operation involving the application or removal of plaster, paint, wallpaper, tiles or other material to or from the surfaces of the interior or exterior of a structure.

Section 3(1)

In this Act, 'development' means, except where the context otherwise requires, the carrying out of any works on, in, over or under land or the making of any material change in the use of any structures or other land.

Section 4(1)

The following shall be exempted development for the purposes of the Act-

(h) development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures;

Section 5(7) EIA Screening

The proposed development is not specified in Part 2 of Schedule 5 of the Planning and Development Regulations 2001(as amended). In any event, it is considered, having regard to nature, size and location, the proposed development would not be likely to have significant effects on the environment. Therefore, EIA is not required.

Planning and Development Regulations 2001 (as amended)

Article 6(1)

Subject to article 9, development of a class specified in column 1 of Part 1 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1.

Article 9 (1)(a)(i)

Restrictions on exemption.

9. (1) Development to which article 6 relates shall not be exempted development for the purposes of the Act—

(a) if the carrying out of such development would—.....(15 items)

Article 9 (xii) is of relevance to this Declaration:

(xii) further to the provisions of section 82 of the Act, consist of or comprise the carrying out of works to the exterior of a structure, where the structure concerned is

located within an architectural conservation area or an area specified as an architectural conservation area in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan and the development would materially affect the character of the area,

Classes of Use

The Planning and Development Regulations 2001 (as amended) lists 12 Classes of Use. Class 1 is of particular relevance to this declaration.

Class 1- Use as a shop.

A “shop” is defined as:

‘shop’ means a structure used for any or all of the following purposes, where the sale, display or service is principally to visiting members of the public –

- (a) for the retail sale of goods,*
- (b) as a post office,*
- (c) for the sale of tickets or as a travel agency,*
- (d) for the sale of sandwiches or other food or of wine for consumption off the premises, where the sale of such food or wine is subsidiary to the main retail use, and “wine” is defined as any intoxicating liquor which may be sold under a wine retailer’s off-licence (within the meaning of the Finance (1909-1910) Act, 1910), 10 Edw. 7. & 1 Geo. 5, c.8,*
- (e) for hairdressing,*
- (f) for the display of goods for sale,*
- (g) for the hiring out of domestic or personal goods or articles,*
- (h) as a launderette or dry cleaners,*
- (i) for the reception of goods to be washed, cleaned or repaired, but does not include any use associated with the provision of funeral services or as a funeral home, or as a hotel, a restaurant or a public house, or for the sale of hot food or intoxicating liquor for consumption off the premises except under paragraph (d), or any use to which class 2 or 3 of Part 4 of Schedule 2 applies;*

Article 10- Change of Use

(1) Development which consists of a change of use within any one of the classes of use specified in Part 4 of Schedule 2, shall be exempted development for the purposes of the Act, provided that the development, if carried out would not—

- (a) involve the carrying out of any works other than works which are exempted development,*
- (b) contravene a condition attached to a permission under the Act,*
- (c) be inconsistent with any use specified or included in such a permission, or*

(d) be a development where the existing use is an unauthorised use, save where such change of use consists of the resumption of a use which is not unauthorised and which has not been abandoned.

(2) (a) A use which is ordinarily incidental to any use specified in Part 4 of Schedule 2 is not excluded from that use as an incident thereto merely by reason of its being specified in the said Part of the said Schedule as a separate use.

(b) Nothing in any class in Part 4 of the Schedule 2 shall include any use—

(i) as an amusement arcade,

(ii) as a motor service station,

(iii) for the sale or leasing, or display for sale or leasing, of motor vehicles,

(iv) for a taxi or hackney business or for the hire of motor vehicles,

(v) as a scrap yard, or a yard for the breaking of motor vehicles,

(vi) for the storage or distribution of minerals,

(vii) as a supermarket, the total net retail sales space of which exceeds 3,500 square metres in the greater Dublin Area and 3,000 square metres in the remainder of the State,

(vii) as a retail warehouse, the total gross retail sales space of which exceeds 6,000 square metres (including any ancillary garden centre), or

(viii) as a shop, associated with a petrol station, the total net retail sales space of which exceeds 100 square metres.

(3) Development consisting of the provision within a building occupied by, or under the control of, a State authority of a shop or restaurant for visiting members of the public shall be exempted development for the purposes of the Act.

(4) Development consisting of the use of not more than 4 bedrooms in a house, where each bedroom is used for the accommodation of not more than 4 persons as overnight guest accommodation, shall be exempted development for the purposes of the Act, provided that such development would not contravene a condition attached to a permission under the Act or be inconsistent with any use specified or included in such a permission.

(5) Development consisting of the use of a house for child minding shall be exempted development for the purposes of the Act.

Assessment

This declaration seeks to establish if a change of use from a clothes shop to a bike hire is exempted development. In a cover letter submitted with the declaration, it is stated that the applicant applied for a previous exemption but has since lost the exemption. From a review of the KCC GIS System, there is no record of such an

exemption being issued. Notwithstanding this, the current declaration is assessed on its merits. Although the application form submitted with the declaration does not specify under which part of the Planning and Development Regulations 2001 (as amended), the exempted development declaration is being sought, it is presumed that it is sought under the provisions of Article 10 of the Regulations where a change of use within any one of the classes of use specified in Part 4 of Schedule 2 shall be exempted development.

A clothes shop comes within the definition of “shop” as outlined under Part 2, Section 5 (c) of the Planning and Development Regulations 2001 (as amended) ie “*for the retail sale of goods.*” The proposed use as a bike hire also comes within the definition of “shop” as outlined under Part 2, Section 5 (a) of the Planning and Development Regulations 2001 (as amended), i.e. *the hiring out of domestic or personal goods for articles.*,. Both uses come within the scope of Class 1 of Part 4 of Schedule 2 of the Planning and Development Regulations, 2001 (as amended) and any change of use that still remains within the category of shop is exempt development. It is therefore considered that the proposed change of use constitutes exempt development.

From the detail provided in this declaration, it appears that the proposed change of use from a clothes shop to a bike hire would not require any changes to the external facade of the property. This is of significance as the subject site is located within an Architectural Conservation Area and it is noted that Article 9 (xii) states that development will not be exempt works “*comprise the carrying out of works to the exterior of a structure, where the structure concerned is located within an architectural conservation area or an area specified as an architectural conservation area in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan and the development would materially affect the character of the area.*” Any declaration of exemption would relate to the change of use only and would not include any exemption for works to the exterior of the structure.

Conclusion

Having regard to:

- Sections 2, 3, 4 and 5 of the Planning and Development Act 2000 (as amended);
- Class 1 of Part 4 of Schedule 2 of the Planning and Development Regulations, 2001 (as amended);
- Articles 6, 9 and 10 of the Planning and Development Regulations 2001 (as amended); and
- The nature, extent and purpose of the works;

It is considered that the proposed works **is exempted development** as defined by the Planning and Development Act 2000 (as amended) and the Planning and Development Regulations 2001 (as amended).

Recommendation

It is recommended that the applicant be advised that the development as described in the declaration is exempted development.

Signed:


Elaine Donohoe
Executive Planner

24/02/2025



Martin Ryan
Senior Executive Planner
24/02/2025

Declaration of Development & Exempted Development under

Section 5 of the Planning and Development Act 2000 (as amended)

WHEREAS a question has arisen as to whether a change of use from clothes shop to a bike hire constitutes exempted development,

AS INDICATED on the plans and particulars received by the Planning Authority on 04/02/2025.

AND WHEREAS John Doyle requested a declaration on the said question from Kildare County Council,

AND WHEREAS Kildare County Council as the Planning Authority, in considering this application for a declaration under Section 5 of the Planning and Development Act 2000 (as amended), had regard to;

- (a) Planning and Development Act 2000 (as amended); and
- (b) Planning and Development Regulations 2001 (as amended);

AND WHEREAS Kildare County Council has concluded that the proposal comprises of development to which the provisions of the following applies:

- (a) Sections 2, 3, 4 and 5 of the Planning and Development Act 2000 (as amended);
- (b) Class 1 of Part 4 of Schedule 2 of the Planning and Development Regulations, 2001 (as amended);
- (c) Articles 6, 9 and 10 of the Planning and Development Regulations 2001 (as amended); and
- (d) The nature, extent and purpose of the works;

AND WHEREAS Kildare County Council has concluded that a clothes shop and a bike hire are both uses which fall within the definition of "shop" as outlined under Part 2, Section 5 of the Planning and development Regulations 2001 (as amended)

NOW THEREFORE Kildare County Council, in exercise of the powers conferred on it by Section 5(2)(a) of the Planning and Development Act 2000 (as amended), hereby decides that -

The change of use from a clothes shop to bike hire at Moore Street, Monasterevin: eircode W340659.

IS EXEMPTED development


Please note that any person issued with a declaration under Section 5 of the Planning and Development Act 2000 (as amended) may on payment to the Board of the prescribed fee, refer a declaration to An Bord Pleanála within 4 weeks of the issuing of the decision.

Note to Applicant:

Please note that the exemption solely relates to the interior of the structure. No changes to the exterior of the building, including signage is considered to constitute exempted development given the location of the site within an Architectural Conservation Area. Please also note that there shall be no storage of bicycles on the public footpath.

Signed: _____

Appendix 1: AA Screening

	APPROPRIATE ASSESSMENT SCREENING REPORT AND DETERMINATION
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(A) Project Details	
ED Ref	ED1189
Applicant name	John Doyle
Development Location	Moore Street, Monasterevin
Site size	n/a
Application accompanied by an EIAR (Yes/NO)	No
Distance from Natura 2000 site in km	The site is located approximately 83 metres from the River Barrow/Nore SAC
Description of the project/proposed development – Change of use from clothes shop to bike hire	

(B) Identification of Natura 2000 sites which may be impacted by the proposed development			
			Yes/No If answer is yes, identify list name of Natura 2000 site likely to be impacted.
1	Impacts on sites designated for freshwater habitats or species. <u>Sites to consider:</u> River Barrow and Nore, Rye Water/Carton Valley,	<i>Is the development within a Special Area of Conservation whose qualifying interests include freshwater habitats and/or species, or in the catchment</i>	

	Pollardstown Fen, Ballynafagh lake	(upstream or downstream) of same?	
2	Impacts on sites designated for wetland habitats - bogs, fens, marshes and heath. <u>Sites to consider:</u> River Barrow and Nore, Rye Water/Carton Valley, Pollardstown Fen, Mouds Bog, Ballynafagh Bog, Red Bog, Ballynafagh Lake	<i>Is the development within a Special Area of Conservation whose qualifying interests include wetland habitats (bog, marsh, fen or heath), or within 1 km of same?</i>	
3	Impacts on designated terrestrial habitats. <u>Sites to consider:</u> River Barrow and Nore, Rye Water/Carton Valley, Pollardstown Fen, Ballynafagh Lake	<i>Is the development within a Special Area of Conservation whose qualifying interests include woodlands, dunes or grasslands, or within 100m of same?</i>	
4	Impacts on birds in SPAs <u>Sites to consider:</u> Poulaphouca Reservoir	<i>Is the development within a Special Protection Area, or within 5 km of same?</i>	

Conclusion:

If the answer to all of the above is **No**, significant impacts can be ruled out for habitats and bird species.

No further assessment in relation to habitats or birds is required.

If the answer is **Yes** refer to the relevant sections of **C**.

(G) SCREENING CONCLUSION STATEMENT		
<i>Selected relevant category for project assessed by ticking box.</i>		
1	AA is not required because the project is directly connected with/necessary to the conservation management of the site	
2	No potential significant affects/AA is not required	
3	Significant effects are certain, likely or uncertain. Seek a Natura Impact Statement Reject proposal. (Reject if potentially damaging/inappropriate)	
Justify why it falls into relevant category above (based on information in above tables)		
Given the change of use and the minor changes involved, it is not considered that the proposal would impact on the Natura 2000 network.		
Name:	Elaine Donohoe	
Position:	Executive Planner	

Date:	21/02/2025
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COMHAIRLE CONTAE CHILL DARA

KILDARE COUNTY COUNCIL



Director of Services Order

I, Alan Dunney, Director of Services, am duly authorised and delegated by Chief Executive's Order number: CE48043 to make the following Order in accordance with Section 154 of the Local Government Act, 2001, as amended.

ORDER NO: DO57241 **Section:** Planning

SUBJECT: ED1189 John Doyle Correel, Vicarstown, Co. Laois. Exempt Development Application for the change of use from a clothes shop to bike hire at Main Street, Monasterevin, Co. Kildare.

SUBMITTED: ED1189 with recommendation from the Senior Executive Planner and reports from the Council's Technical Officers.

ORDER: I hereby order the following Kildare County Council, in exercise of the powers conferred on it by Section 5(2)(a) of the Planning and Development Act 2000 (as amended) hereby decides that the proposed development is development and is exempted development.

MADE THIS 24th DAY
OF February YEAR 2025

SIGNED: Alan Dunney
DIRECTOR OF SERVICES

Kildare County Council
Declaration of Exempt Development under Section 5,
of the Planning and Development Act 2000

Incomplete application forms will
be deemed invalid and returned



All responses must be in block
letters

Section 1 **Details of Applicants**

1. Name of Applicant(s) A. Surname... DOYLE Forenames... JOHN
 Phone No. [REDACTED] Fax No.
 2. Address ... CORRICK ULCASTOWN CO LADIS

Section 2 **Person/Agent acting on behalf of applicant (if applicable)**

1. Name of Person/Agent: Surname... Forenames...
 Phone No. Fax No.
 2. Address.....

Section 3 **Company Details (if applicable)**

1. Name of Company
 Phone No. Fax No.
 2. Company Reg. No.....
 3. Address.....

Kildare County Council
Planning Department

4 FEB 2025

Section 4 **Details of Site**

RECEIVED

1. Planning History of Site.....
 2. Location of Proposed Development... MAIN STREET MONASTERENUN
CO KILDARE
 3. Ordnance Survey Sheet No.....
 4. Please state the Applicants interest in the site ... TENANT
 5. Please state the extent of the proposed development... CHANGE OF USE
FROM CLOTHES SHOP TO BIKES HIRE

6. Under what Section of the Planning and Development 2000 and/or what provision of the Planning and Development Regulations 2001 is exemption sought (specific details required).....

7. Please give a detailed description of the Proposed Development (Use separate page if necessary).....

A BIVE HIRE TO CAPAN FOR
 PEOPLE USING THE BARRON BULKWAY
 THERE WILL BE STANDARD BIKES,
 ELECTRICAL BIKES AND
 CONSTRUCTION WITH H.A.R.E.
 THERE WILL BE DISABILITY BIKES

Section 5	The following must be submitted for a valid application
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(Please Tick)

1.	Site Location Map (1:2500 Rural Areas) (1:1000 Urban Areas)	
2.	A Site Layout Plan (Scale 1:500) in full compliance with Article 23 of Planning and Development Regulations 2001	
3.	Drawings of the development (Scale 1:50) in full compliance with Article 23 of Planning and Development Regulations 2001	
4.	All drawings to differentiate between the original building, all extensions and proposed development	
5.	Fee of 80 Euro	

Section 6	Declaration
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I, John Doherty certify that all of the above information is correct and I have submitted all the required documents as outlined at Section 6 above.

Signature: 

Date: 29/1/2025

Kildare County Council
 Planning Department

4 FEB 2025

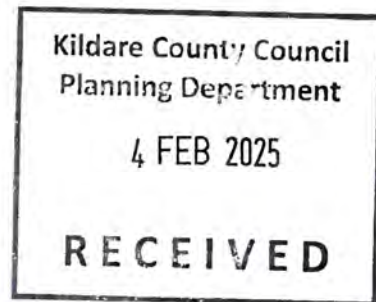
CORAKILL

VICARSTOWN

Co. DUBLIN

30/1/2025

087 669 3710



Dear Sir/Madam,

I AM APPLYING FOR AN EXEMPTION.
I AM OPENING A BIKES SHOP
IN MAW STREET MONASTERNIV-W340659
IT IS CURRENTLY A CLOTHES SHOP
AND BEFORE THAT IT WAS A
GROCERY SHOP SINCE AT LEAST THE 1960'S.
I APPLIED 2 YEARS AGO AND RECEIVED
THE EXEMPTION BUT THE LETTER WAS
LOST.

I WILL MOVE THE BIKES STAND TO
THE REAR AS PER PICTURE.

REGARDS

/ S O'NEILL DOYLE

Main Street 1_1000.pdf

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Tailte Éireann



CENTRE COORDINATES:
ITM 662473.710500
PUBLISHED:
29/10/2024
ORDER NO.:
50430829_1
MAP SERIES:
1:1,000
MAP SHEETS:
3715-04

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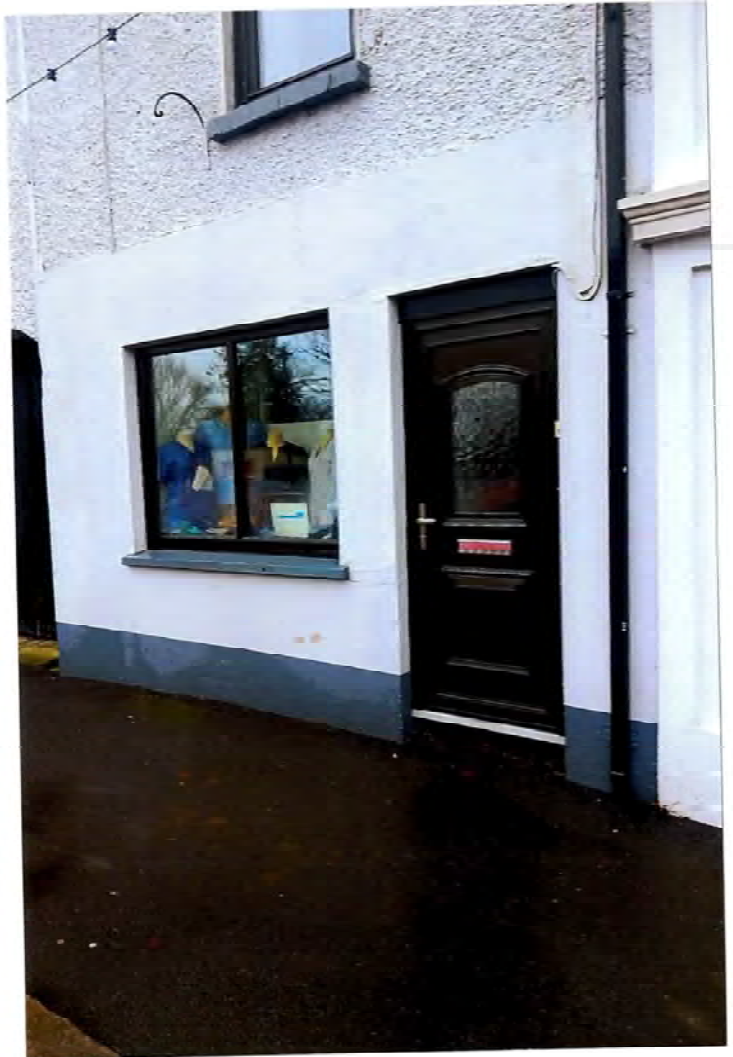
This topographic map
does not show
legal property boundaries.

Compliant Map











FINANCE CASH OFFICE
Kildare County Council
Áras Chill Dara
Devoy Park
Naas
Co. Kildare
04/02/2025 11:58:26

Receipt No. : FIN1/0/508364

John Doyle

PLANNING EXEMPT DEVELOP FEES 80.00
GOODS 80.00
VAT Exempt/Non-vatable

Total : 80.00 EUR

Tendered :
Money Order 80.00

Change : 0.00

Issued By : Sally Pallister Finance Section
From : Financial Lodgement Area
Vat reg No.0440571C